

PLANNING BOARD MEETING

TIPP CITY, MIAMI COUNTY, OHIO

August 14, 2007

Meeting

Chairman Michael McFarland called this meeting of the Tipp City Planning Board to order at 7:37p.m.

Roll Call

Roll call showed the following Board members present: Mike McFarland, John Berbach, Bryan Blake, Robert Horrocks, and Mark Springer.

Others in attendance: Assistant City Manager Brad Vath, Council Members: Donald Ochs, Pat Hale, and Bill Beagle, and Board Secretary Marilyn Fennell. Those signing the guest register included: Martin Kim (MVRPC), Donna Cook, Joe Bagi, Elden Eidemiller, Paul & Kathy Lee, Jeff Andriacco, Lena Heckman, Nick & Andrea Hoover, Alan Leingang, and Bob Shook. Mike Kelly of the *Tipp Herald* and Nancy Bowman of the *Dayton Daily News* were also present.

Addition to Agenda

Mr. McFarland added to Miscellaneous, #2. City Council Report for August 6, 2007. Mr. McFarland **moved to approve the addition to the agenda**. Mr. Berbach seconded the motion. Motion passed 5-0.

Approval of Minutes
July 10, 2007 Meeting

Mr. McFarland moved to approve the minutes of the July 10, 2007 meeting. Mr. Springer seconded the motion. Motion passed 5-0.

**Items not on the
Agenda**
NEW BUSINESS
Deadline Dates

There were no comments on items not on the agenda.

Chairman McFarland announced that the next regularly scheduled Planning Board meeting would be held Tuesday, September 11, 2007. Preliminary Plans, Final Plats and Site Plans must be submitted by 5:00 p.m. on August 20, 2007 and temporary sign requests for display over 30 days must be submitted by 5:00 p.m. on September 5, 2007.

Swearing in-those
wishing to give testimony

Those wishing to speak during the public hearings were sworn in at this time by Mr. Vath, notary.

Tipp City United Way,
14 W. Walnut St. Inlot
4019, (CC/RA zoning)-
Temporary Sign

Mr. Vath said the United Way wishes to erect a 32 sq. ft. single-sided, freestanding plastic sign in the front lawn of the Zion Lutheran Church from September 1, 2007 to October 31, 2007. The purpose of the sign is a thermometer indicating the amount of pledges received for the Tipp City Area United Way Fund. Code Section §154.092 indicates that signage displayed over 30 days must be approved by the Planning Board. Staff noted that there have been similar requests for 2005 and 2006 for a similar sign. The sign will be non-illuminated, single-sided and supported by two 4"x4" wooden posts. The sign would be erected for a total of 61 days. Staff has no objections to the sign and recommends approval with the sign to be removed no later than October 31, 2007.

Mr. Horrocks **moved that the request be approved with the sign to be removed no later than October 31, 2007**. Mr. Blake

Jeff Andriacco, Tip Top Auto Sales, 15 W. SR 571, Inlot 3216 (GB zoning)- Temporary Sign

seconded the motion. Motion passed 5-0.

Mr. Vath said this is a similar temporary sign request. The sign will be 2' tall x 10' wide, single-sided, vinyl/fabric, located on the eastern roof mansard of the structure located at 15 W. SR 571 which is the Tip Top Auto Sales. The sign is to be displayed from August 15, 2007 to September 15, 2007. The sign will depict "BUY SELL TRADE". As with the previous request, Code §154.092, signs may be issued administratively up to 60 days per calendar year. Since the applicant has utilized the maximum 60 day administrative approval, the Planning Board must review this request. Staff recommended approval of the request with the condition that the sign be removed by September 15, 2007.

Mr. McFarland asked if there had been any complaints regarding the signage received for this location. Mr. Vath said he was not aware of any complaints.

Mr. Blake **moved to approve the temporary signage as requested with the sign to be removed no later than September 15, 2007.** Mr. Springer seconded the motion. Motion passed 5-0.

Paul Lee, 17 N. Fourth St., Inlot 4035, (R-2 zoning)- Special Use for 2-family dwelling

Mr. and Mrs. Paul Lee are seeking approval for a Special Use Permit for the conversion of the structure at 17 N. Fourth St. from a single-family dwelling unit to a two-family dwelling unit. The Special Uses within the R-2 Zoning district are noted in Code §154.044(B)(2). The General Requirements are noted in §154.122(A) and in the staff report. The Specific Requirements, Code §154.122(B)(35) state the minimum lot area shall be 11,000 sq. ft. The lot in question contains 4,748 sq. ft. and a variance was granted by City Council overturning a Board of Zoning Appeals denial on August 6, 2007. The minimum lot width shall be 80 feet. The width of this lot is 47.06'. Another variance was granted by City Council, overturning a decision of the Board of Zoning Appeals at the August 6, 2007 meeting. The lot meets the minimum rear yard setback. The minimum sideyard setback shall be 10 feet. The Board of Zoning Appeals granted variances for both sideyards on June 20, 2007.

Mr. Vath said the parking is under Code §154.078(A)(1) and requires 2 spaces per dwelling unit. The applicant has indicated he will expand the off-street parking to 3 spaces. On May 16, 2007, a variance was granted by the Board of Zoning Appeals.

Mr. Vath continued that staff recommended any Planning Board approval contain the following two conditions:

1. That the Planning Board finds that the requested Special Use meets the General and Specific requirements for Special Uses for two-family dwellings as noted in Code and grants a Special Use Permit for the same.
2. That the applicant must complete the expansion of the existing off-street parking area to accommodate three (3) standard (10' x 20') spaces prior to occupancy of the structure.

Mr. McFarland said this matter came before the Board before but there were some variances needed which have been granted by City Council. There were no further comments or questions.

Nicholas Hoover,
Coldwater Café, 19 E.
Main St. Pt Inlot 26 &
Inlot 43, (CC/RA
zoning)- Partial waiver
of off-street parking
requirements

Mr. McFarland moved to grant a Special Use Permit to 17 N. Fourth Street, Inlot 4035 with the Planning Board finding it meets the General and Specific Requirements for a two-family dwelling as noted in Code and the applicant must complete the expansion of the existing off-street parking to accommodate three (3) standard (10' x 20') spaces prior to occupancy of the structure. Mr. Berbach seconded the motion. Motion passed 5-0.

Mr. Vath said Mr. Hoover is the potential purchaser of the 19 E. Main St. and requests approval of the partial waiver of the off-street parking requirements with the potential relocation of the Coldwater Café. 19 E. Main Street was the former location of the Fifth Third Bank. Staff notes that a restaurant is a principal permitted use in the CC (Community Center) District as indicated in Code §154.051(B)(1)(c). Regarding the parking requirements, Code §154.078(E)(8) indicates that a restaurant shall provide one off-street parking space per 100 square feet of gross floor area, plus one space per employee on the largest work shift. The structure contains 5,450 sq. ft. of gross floor area (total of 1st & 2nd floors). The applicant has indicated that the restaurant will employ 9 employees on the largest work shift. Therefore the restaurant portion of the building requires 64 off-street parking spaces to comply with off-street parking requirements.

Mr. Vath continued the Planning Board has the ability to waive any and all such off-street parking requirements. The existing off-street parking area was previously utilized by the bank for off-street parking and ATM/drive-thru facilities. The existing \pm 76' x 103' lot contains 8 non-conforming (9' x 20') parking spaces and the ATM/drive-thru kiosk with corresponding stacking lanes.

Mr. Vath said that staff recommends approval with the following conditions:

1. That the Planning Board waive all but eight (8) existing off-street parking space requirements for 19 E. Main Street for the operation of the Coldwater Café.
2. That the Planning Board waives all off-street parking requirements for any future use of 19 E. Main Street which will not increase the intensity or use of this property as noted in this staff report. This second motion is recommended so as to provide administrative relief to the Planning Board for uses which would not increase the current parking requirements delineated in this staff report, and to expedite Change of Use permits for possible future tenants.
3. If the Planning Board approves the waiver of the off-street parking requirements, the applicant will be required to obtain the required Change of Use Permit.
4. The applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan prior to the construction/undertaking of any such proposed modifications.

Mr. Vath added that there is no signage approval in this request.

Mr. McFarland stated this is a similar request that has been considered for other businesses in that zoning district. Mr. Springer asked if there has been any feedback regarding the downtown parking. He said some time ago there was a meeting downtown and signs were added to direct parking to some of the side streets. Mr. Vath said the merchants want the spaces full so that there are customers in their

stores. A year to year and a half ago the City entered into a contract with Town and Country Market for 18 spaces that were east of the Market parking lot. That property has changed hands and those 18 spaces are no longer public parking spaces. The City did provide the signage to direct parking to Broadway or the other side streets. In this case there is an existing restaurant which is moving from the corner of Second and Main Street and going to 19 E. Main Street. There are the 8 non-conforming spaces at the new location and there are some future plans to renovate the parking area that Mr. Hoover can address. Any outside renovations/changes and signage will need approval from the Restoration Board. Also Site Plan review by the Planning Board would be required if the parking lot is changed. Mr. Vath said staff felt it was a positive re-use of the building and will allow the Coldwater Café to grow and thrive in Tipp City.

Mr. Blake verified that the parking area was part of the purchase package. Mr. Vath said that was correct. Mr. Hoover came forward and said he hoped that by spring they could be looking at 24 parking spaces in the rear lot after review by the Board. Mr. Horrocks asked who the current owner of the property was. Mr. Hoover said it was the Library and they wish to have a shared use with the Café after the ATM/drive-thru structure is removed. Mr. Vath said that when the renovation of the lot comes before the Planning Board, an agreement to share the spaces between the two could be included as part of the site plan review. There is also the demolition process that must be followed in the Restoration District, even though the structure (drive-thru) is not historic. Mr. Hoover said the Café presently has 16 tables with no off-street parking. He said the new location will allow 30-40 more tables with the 8 off-street parking spaces with more to come when the ATM comes down.

Mr. Blake moved to:

- 1) **Waive all but 8 off-street parking spaces for 19 E. Main Street for the operation of the Coldwater Café,**
- 2) **That the Planning Board waives all off-street parking requirements for any future use of 19 E. Main Street which will not increase the intensity or use of this property as noted in this staff report. This is recommended so as to provide administrative relief to the Planning Board for uses which would not increase the current parking requirements delineated in this staff report, and to expedite Change of Use permits for possible future tenants.**
- 3) **The applicant will be required to obtain the required Change of Use Permit.**
- 4) **The applicant must obtain authorization/approval from the Planning Board for any proposed modifications to the approved site plan prior to the construction/undertaking of any such proposed modifications.**

Mr. Berbach seconded the motion. The motion passed 5-0.

Paul Dehus, Bendit Properties, 130 W. Walnut Street, Inlot 147 (I-1D/LD zoning)- Site Plan Modification

Mr. Vath said the applicant is seeking approval for two items, a concrete pad to accommodate an air conditioning unit and associated duct work and the installation of a concrete walkway and replacement of a concrete pad abutting the front doorway. For the air conditioning pad the applicant proposes to install a 79" x 60" pad to accommodate a 49" x 34" air conditioning unit and duct work. The pad would be 4"-6" thick. The duct work would enter the building through two openings. The

window will be blocked in with the installation of the ductwork. This pad will be 236" from the western property line. The second item for approval is the installation of a 36" x 196" concrete walkway and 48" x 60" concrete pad abutting the front door. The pad will abut the man-door on the northern façade of the structure. The proposed 3' wide walkway will extend northerly from the pad to the existing sidewalk on W. Walnut Street. The applicant has also indicated the installation of 12 shrubs that will be planted between the structure and the sidewalk as a landscaping accent and screen.

Mr. Vath continued by noting the property lies within the LD-Legacy District. Regarding equipment placing and screening under Code §154.064(M)(1) it states that "*The provisions of this section shall apply to all new construction or the expansion of existing structures within the Legacy Overlay District.*" Since the proposed installation does not involve any new construction or expansion of the existing structure, the requirements of the subsection which requires all mechanical equipment, such as HVAC systems to be located on the roof or in the rear of the structure, are not applicable. The proposed private sidewalk is in conformance with Code §154.064(K)(2) which states a sidewalk shall be provided that connects the main building entrance to the City sidewalk system.

Mr. Vath said staff recommends approval of the proposed site plan with the condition that the applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site **prior** to the construction/undertaking of any such proposed modifications. He stated Mr. Dehus was available if the Board had any questions. Mr. Springer asked if the air conditioning unit could be on the west side facing the railroad tracks. Mr. Dehus said the building runs right along the property line, there is no room.

Mr. Berbach **moved to approve the site plan for 130 W. Walnut Street with the condition that the applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site prior to the construction/undertaking of any such proposed modifications.** Mr. Horrocks seconded the motion. Motion passed 5-0.

Public Hearing: David & Carolyn Glaser, 1330 E. Evanston Rd., IL 4043- Zoning Map Amendment R-1 to R-1A

Mr. McFarland said the next matter was a continued Public Hearing for David and Carolyn Glaser, 1330 E. Evanston Road, Pt IL 4043, zoning map amendment of R-1 to R-1A. He said this is to be continued to the next meeting. Mr. Vath said the City was waiting for a written legal description from the applicant's engineer. A site map and a closure statement were provided but a metes and bounds description is needed. He recommended that the matter be continued to the September meeting. Mr. McFarland asked if this is going to be an ongoing continuation. Mr. Vath said he hoped that it could move forward at the next meeting. Mr. McFarland **moved that the public hearing be continued to September 11, 2007.** Mr. Blake seconded the motion. Motion passed 5-0.

Public Hearing: Fieldstone Place, 105, 125, 155, 175 E Evanston Rd., Pt IL

Mr. McFarland **moved to open the public hearing.** Mr. Berbach seconded the motion. Motion passed 5-0.

Mr. Vath gave a brief history of the property. In 2004 the property

was rezoned with a 26-month self-imposed moratorium. On March 13, 2007 the Planning Board approved the Pre-Application Sketch for Fieldstone Place. On June 12, 2007 Planning Board forwarded a positive recommendation to City Council recommending the Preliminary Plan. On June 18, 2007 (Res. 22-07) City Council approved the Preliminary Plan. On July 10, 2007 the Planning Board continued the Public Hearing for review of the Final Plan until August 14, 2007 due to several incomplete items which have been addressed.

Mr. Vath continued there was a chart in the staff report that shows the total number of assisted living units (87), congregate living (138), and independent living cottages (72). Fieldstone Place will not incorporate any public rights-of-way within its boundaries but those structures will be served by private driveways. The subdivision does require the compliance with Code §155.107(D) regarding the Thoroughfare Plan, (widening of Evanston Road and CR 25A) as will be discussed later.

The proposed subdivision will include three (3) lots of record. Ranging from 9 acres to 25.627 acres. The Planning Board granted a variance of four dwelling units per acre for the density requirement for Lot #2 at the June 12, 2007 meeting. There were also some setback variances granted at the June 12th meeting. The individual setbacks are listed in the staff report. The subdivision will incorporate 29.10% common open space, the minimum is 25%. A table showing the percentage per lot is shown on a chart in the staff report. The Planning Board did grant a variance on June 12, 2007 granting a variance of 9% for the requirement for Lot #1 but the overall 3-lot development will have 29%.

Mr. Vath said Lot #2 has no direct access to a City thoroughfare with all southern frontages along Evanston Road blocked by a proposed storm water detention easement. There are cross easements for ingress/egress through Lot #3 & #1 for Lot #2. Those are dedicated within the plat and shown on the plat. All the private driveways within the plat will have cross easements so that the owners of Lots 1, 2, & 3 and anyone living within those areas will be able to drive within the plat.

Regarding utilities, Fieldstone Place will have potable water by extending a 12" water main northerly on CR 25A from the existing NAWA 24" main at Evanston Road and westerly on Evanston Road to provide for future extension of water service westerly on Evanston Road. Water will be extended through the subdivision. A sanitary sewer (8") will be discharged easterly on Evanston Road to the existing sanitary sewer line.

Mr. Vath said per the Thoroughfare Plan, it requires that both Evanston Road and CR 25A be widened. The Final Plan indicates the Evanston Road being widened from its current 50' width to the required 70' width and CR 25A from 66' to 100'. Off-street parking will be provided with 484 off-street parking spaces. This includes 210 private enclosed garage spaces, 263 exterior off-street parking spaces, and a minimum of 11 handicapped spaces. Parking will be prohibited on the private driveways and shall be signed as such, as they will be narrow and emergency vehicles must have access.

The project will be a multi-phased development with the following

phases:

Phase 1	Assisted Living and Town Square
Phase 2	Memory Care Unit
Phase 3	Congregate Living and Garage
Phase 4	Clubhouses and Duplexes
Phase 5	Independent Living Cottages and Garages
Phase 6	Independent Living Cottages and Garages

Mr. Vath noted that the sequencing of the phasing may be modified in the future due to market needs and demands.

Mr. Vath continued; all sanitary and water lines are to have a minimum of 10' utility easements and are shown on Page 5 of the Final Plan. Any off-site easements shall be provided by the Staubs to the City for storm, water, and sanitary sewer purposes.

In the packet were the Covenants, Deeds, and Restrictions, (Attachment H). The applicant has retained attorney, Michael Staudt for the promulgation of these documents.

The storm water detention will be provided for on-site for the entire subdivision with two detention basins fronting Evanston Road and two retention basins along CR 25A. The storm water will then discharge easterly via a 30" pipe across the Staub property on the east side of CR 25A to an existing swale and natural spring discharge area which continues easterly. City Engineer Vagedes has approved the storm water plan and calculations.

Mr. Vath said the City is requesting, and hoping the Planning Board will require individual deed encumbrances for Lot 2 and Lot 3 which shall hold those lot owners liable for the right-of-way public improvements completion and construction along Evanston Road. Phase One will complete Lot #1 and a small portion of Evanston Road but all the public right-of-way of Evanston Road is going to be dedicated at this point of time. So these deed encumbrances require the future property owners to make the public improvements to Evanston Road. Theoretically Lots 2 & 3 could be sold to someone else and the encumbrances ensure the City that the Evanston Road right-of-way will be constructed in the future per the approved plan.

Mr. Vath said surety (bond, irrevocable letter of credit, cash) will be required for the required public improvements along the thoroughfares or any other public improvements within the plat, the water or sanitary sewer. The estimate provided by the applicant's engineer, Choice One Engineering, has been approved by City Engineer Vagedes of \$520,000 for all public improvements in Phase One. Surety in this amount, plus 10% shall be provided prior to the adoption of the Final Plat by City Council.

He continued there is some oversizing being proposed as there is a property immediately to the north on the west side of CR 25A which is owned by UpNorth Construction. They have requested that the developer, Fieldstone Place Senior Living Campus, to lower the sanitary sewer main so that their 15 acres can be serviced by the sanitary sewer. There will be a charge for the additional depth that will be paid back by UpNorth Construction to this property owner, Fieldstone Place.

The latest version of the Construction/Subdivider's Agreement was passed out to the members before the meeting and will be reviewed later.

The second request by the applicant is for Special Use Permits. Code §154.056(l)(2)(a)(1) allows for various such uses as listed in the staff report. The assisted living and memory care units uses are synonymous with Nursing Home. The congregate living apartments are synonymous with Congregate Housing. The independent living cottages are synonymous with a Condominium. Those 3 uses are all listed under the Special Uses under the code. The General and Specific requirements are listed in the staff report. Staff said that State certification/Licensing is required for the Assisted Living/Memory Care components of the subdivision and the same shall be a requirement of the approval of the Final Plan. An Occupancy Permit will not be granted until a copy of that certification is provided.

The photometric chart of the off-street parking areas indicates that all off-street parking will have an average of 2.6 lumens across the entirety of the off-street parking areas. The illumination will have a maximum of 20.8 lumens and a minimum of 0.0 lumens. The landscaping table was presented in Attachment "F".

The construction and subdivider's agreement allows the developer to start construction of the Assisted Living Facility at the same time the Public Improvements are being done. No Certificate of Occupancy Permit shall be issued until the Public Improvements are installed, inspected, and acceptable to the City.

Mr. Vath said it was recommended that there be two motions for the acceptance of this Final Plan and Special Use Permits. There were as follows:

Motion 1

Planning Board recommendation of the Final Plan should contain the following conditions:

1. Approval of the Final Plan for Fieldstone Place Senior Living Campus to include photometric/lighting diagrams; landscaping diagram; all attachments; covenants, conditions and restrictions; construction and subdivider's agreement; and construction plans and schematics.
2. An affirmation of the variances granted in the approval and recommendation of the Preliminary Plan for density and open space requirements for the subdivision.
3. The applicant shall provide surety (bond, irrevocable letter of credit, cash) per Code §155.117(B) for the required thoroughfare construction and all required Public Improvements (for Lot 1 and off-site) prior to City Council approving the Final Plan by Ordinance.
4. The applicant shall promulgate to the satisfaction of the City, individual deed encumbrance on lots two (2) and three (3), which shall hold accountable any/all future property owners for the completion of right-of-way improvements and construction along Evanston Road. Said encumbrances shall be recorded with the Miami County Auditor's Office.
5. The applicant shall promulgate to the satisfaction of the City, an approved schedule for posting of surety regarding phasing and

- sequencing of construction of all required public improvements.
6. State Certification/Licensing for Assisted Living/Memory Care prior to issuance of the Final Certificate of Occupancy permit required for the Assisted Living Facility.

Motion 2

1. The Planning Board grants a Special Use Permit for a Nursing Home Special Use, a Congregate Living Special Use, and a Condominium Special Use as delineated in this staff report.

At this time Mr. Vath reviewed the Construction Agreement that was received this date, 8/14/2007. There were some minor changes from the one received by the Board members in their Friday packet. There were no changes on Page 1, 2, or 3. On Page 4, Item #8, the word "alley" was deleted; Item #10 had some misspellings. On Page 5, Item #11- the bullet points were modified to require that two-year surety is posted for Lot #1 and will be kept in place until surety is posted for Lot #2. There are some slight changes in that language. The last bullet point was added that Lots 2 & 3 shall have deed encumbrance recorded against the Inlots to guarantee completion of the Public Improvements on Evanston Road in accordance with Item #14 of Exhibit "A".

He continued that one item that has not been resolved regarding Page 6, Item #15. There needs to be some reworking there as the applicant would like to start construction of the assisted care unit prior to the public improvements being in place. Staff does not have a significant concern with that being a larger structure but would be cautious if the independent living units are involved. The water and sanitary sewer improvements have to be in place for those. If the Planning Board is comfortable, the four larger buildings could start because there is a long lead time to build those structures. Mr. Mosier said he was fine with Item #15 as proposed by Mr. Vath. Mr. Mosier said Lot #3 would have to have the water and sanitary sewer in place. Mr. Vath said he had received a change in the language at 5:00pm this evening and he had not returned until 6:15pm this evening and did not get the changes made. He felt it was very close to being complete.

On Page 8, Item F, there is a new paragraph under Item #4 speaking to the opportunity to reduce the surety after surety is posted for the next section. This is very similar to Rosewood Creek. Item #17, a change in the last bullet point regarding the parking. Page 10 laid out the fee structure. The first phase for Lot #1 has fees of \$32,129. Page 12 had some typos, misspelling on Page #13, Item #4. #5 in the Phasing, we took a couple of words out and kept it at "Lot" instead of "Subdivision". Page #14, Item #8 needs some wording changes regarding the Construction Traffic Requirements. Page #15, #9, underlined section dealing with the additional depth being requested by UpNorth Construction needs some minor changes. Item #10 is the Intervening User Agreement there is some verbiage that the applicant and his attorney wanted and the City is fine with that.

Mr. Vath continued that Exhibit "F" shows the oversizing for the Water Main on Evanston Road for Lots 1, 2, & 3. Attachment "H" is the Declaration of Covenants, Conditions, and Restrictions and there are no changes in those.

The 5-page Final Plan was included in the packet. It incorporated the protective covenants and restrictions which come from Attachment "H". It also incorporates the City's standard stormwater restrictions for any retention/detention ponds. Page #4 is the actual lot layout and approved setbacks during the original Preliminary Plan process. Page #5 has the easements that are necessary for ingress and egress over the public driveways and the public utilities. The lighting diagram is Attachment E and F is the landscaping plan.

Mr. McFarland asked about the easements for gas, telecommunications/television cable. Mr. Vath said they would be included in the easements shown. Mr. McFarland asked Mr. Mosier to come forward to add anything he needed. Mr. Mosier asked if there needed to be discussion on the wording. Mr. Vath said if the Planning Board was comfortable that by noon on Wednesday, that the two paragraphs will be resolved staff would be fine with that. Mr. McFarland said he felt the Board would be comfortable with staff working that out with the applicants and their attorney. Mr. Mosier said he did not have anything else to discuss.

Mr. Springer asked about the lot sizes on Attachment B; that they were different from the acreage listed in the staff report. Mr. Vath said the acreage of the lots included the public right-of-way in the table in the staff report. The diagram did not. Mr. Berbach asked how we would handle changes in the subdivision after its adoption. Mr. Vath said if there are changes, minor or major, those are defined in code. Major changes would require a review by Planning Board. Mr. Blake asked if the improvements to Evanston Rd. and CR 25A included sidewalks and gutters. Mr. Vath said that was correct. The sidewalks would only be on Fieldstone property within the right-of-way as some of that surrounding property is not within the incorporated area of the City.

Mr. McFarland asked for further questions. There were none. Mr. Springer **moved to close the public hearing.** Mr. Berbach seconded the motion. Motion passed 5-0.

Mr. McFarland **moved to recommend the Final Plan for Fieldstone Place Senior Living Campus, 105, 125, 155, & 175 E. Evanston Road, Pt. Inlot 3601 per the 6 recommendations from the staff report:**

- 1. Approval of the Final Plan for Fieldstone Place Senior Living Campus to include photometric/lighting diagrams; landscaping diagram; all attachments; covenants, conditions and restrictions; construction and subdivider's agreement; and construction plans and schematics.**
- 2. An affirmation of the variances granted in the approval and recommendation of the Preliminary Plan for density and open space requirements for the subdivision.**
- 3. The applicant shall provide surety (bond, irrevocable letter of credit, cash) per Code §155.117(B) for the required thoroughfare construction and all required Public Improvements (for Lot 1 and off-site) prior to City Council approving the Final Plan by Ordinance.**
- 4. The applicant shall promulgate to the satisfaction of the**

City of Tipp City, 520
W. Main St., Inlot 421,
Pt. IL 625-629, Pt. IL
630, (GB/R-2 zoning)-
Site Plan Review

City, individual deed encumbrance on lots two (2) and three (3), which shall hold accountable any/all future property owners for the completion of right-of-way improvements and construction along Evanston Road. Said encumbrances shall be recorded with the Miami County Auditor's Office.

5. The applicant shall promulgate to the satisfaction of the City, an approved schedule for posting of surety regarding phasing and sequencing of construction of all required public improvements.
6. **State Certification/Licensing for Assisted Living/Memory Care prior to issuance of the Final Certificate of Occupancy permit for the Assisted Living Facility.**

Mr. Horrocks seconded the motion. The motion passed unanimously 5-0.

Mr. McFarland **moved to grant a Special Use Permit for a Nursing Home Special Use, a Congregate Living Special Use, and a Condominium Special Use as delineated in the staff report.** Mr. Horrocks seconded the motion. Motion passed 5-0. Mr. McFarland added that any minor modifications that are pending on the construction agreement can be worked out by City Staff with the applicant.

Mr. Vath said the City of Tipp City's City Engineer Scott Vagedes is requesting that Planning Board approve the site plan modification for the Westside Fire/EMS Station. Over the past several years, the City has acquired two properties, 530 and 536 W. Main St. which were single-family dwellings that were razed to allow for the expansion of the parking area for the existing Fire/EMS station. The proposed off-street parking area will be located on those two newly acquired properties to the west. It will provide 21 standard (10' x 20') parking spaces and two handicapped accessible spaces.

Mr. Vath continued that the landscaping adjacent to the public right-of-way has been provided in accordance with Code §154.074(J)(2)(b)(1)(a). In conjunction with the Main Street Streetscape Plan, the applicant will provide a 6' buffer strip along Main Street. It will contain 4 medium to large trees, approved by the Tree Board. There is to be one tree for each 46 linear feet for frontage. The property along the western side is residentially zoned and occupied. Code §154.074(J)(2)(b)(2)(a) requires that it be buffered. After discussion with the adjacent property owner the City will be installing a 6' board-on-board fence along the western property line. It would be approximately 104' in length and there would be 5 smaller trees planted on the city's side of the fence. The City offered a dense hedge or a fence to the adjacent property owner, but they preferred the fence.

The interior parking lot landscaping shall be provided according to Code §154.074(J)(2)(b)(3)(a). The parking area has a total of 23 off-street parking spaces, therefore 230 square feet of interior parking lot landscaping is required. The site plan delineates 812 sq. ft of landscaping area.

Regarding storm water drainage, City Engineer Vagedes has indicated that the additional on-site storm water detention/retention is not required due to the nominal increase in impermeable surface generated

by the construction of this project. The storm water will naturally follow northerly and easterly through the catch basins on the property and into the Main Street storm water system.

Mr. Vath said a photometric diagram was provided which indicates that the lot will be provided with an average of 2.36 lumens across the entirety of the off-street parking area, with a maximum of 6.4 lumens and a minimum of 0.8 lumens.

Mr. Vath said staff recommends approval of the proposed site plan with the condition that the applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site *prior* to the construction/undertaking of any such proposed modifications. Mr. Vath said it will be a great improvement to the area and will provide much needed parking for the volunteer firemen and EMS staff.

Mr. McFarland asked if the lights will be shielded so as not to shine in the neighboring properties. Mr. Vath said that is a standard requirement that the light does not wash out onto the adjacent properties. The diagram does show the light as it washes out toward the adjacent properties. Mr. Springer asked if the fire station might expand to the west in the future. Mr. Vath said the parking lot is being constructed at this time and if in the future there was to be additional building added, there would have to be extensive additional excavation for footers and foundations. That is a potential long-term issue for the City. The new spaces will certainly assist the fire and EMS personnel for the time being.

Mr. Springer **moved to approve the site plan modification for 520 W. Main St., Inlots 421, Pt IL 625-629, Pt IL 630 with the condition that the applicant must obtain authorization/approval from the Planning Board for any proposed exterior modifications to the site *prior* to the construction/undertaking of any such proposed modifications.** Mr. Blake seconded the motion. Motion passed 5-0.

Old Business

There was no Old Business for discussion.

Miscellaneous

Paul Lee, 120-122 W. Broadway, IL 3864, (I-1D/LD zoning)-
Parking Lot discussion

Mr. Vath gave a brief history of this property. On October 12, 2004, Planning Board granted conditional site plan approval for an off-street parking area for the properties at 120-122 W. Broadway which was to provide the mandated parking spaces for those businesses. The Planning Board approved the parking lot with the condition that it should be completed by October 1, 2005. On September 13, 2005 the Planning Board granted a one-year extension for completion of the off-street parking area until October 1, 2006. In late 2005, the City started the process of looking at the Reuse Plan for the Legacy, Light Industrial District adjacent to the CSX railroad track. This property was within that area being considered. On August 7, 2006 City Council adopted Resolution 36-06 adopting the Legacy District Reuse Plan which put into place the Legacy District Reuse Plan and resolved that City Staff should incorporate this Plan into their working documents. On January 9, 2007, the Planning Board recommended to Council the adoption of Code §154.064, the Legacy Overlay District. On March 5, 2007, Council passed Ordinance 12-07 which formally adopted Code §154.064, the

Legacy Overlay District which became effective on April 4, 2007. On June 18, 2007 City Council adopted Ordinance 20-07 the Legacy Overlay District zoning as recommended.

On July 17, 2007 Paul and Kathy Lee met with Assistant City Manager Brad Vath and City Planner Matt Spring to discuss the current situation and possible options for completion of the off-street parking area. To date, no work has commenced on the required off-street parking area, which again was approved by Planning Board on October 12, 2004 and was to be completed by October 1, 2006. Mr. and Mrs. Lee have indicated that there are certain financial conditions that are an overriding concern regarding the completion of the parking area. A firm timeline has been difficult to ascertain. Mr. Vath believed the utmost importance is that the Lees are seeking approval for residential inhabitation for the upper floor prior to the construction of the off-street parking area. According to the Lees, approval of the use of the upper floor for residential inhabitation, without the existing approved off-street parking area, will hopefully generate an income stream necessary to fund the construction of the parking area.

Mr. Vath said a proposal that staff has looked at is based upon the meeting of July 17, 2007 with the Lees. It is the desire of the City and the Lees to have the parking area completed. Staff proposes that the Planning Board consider approval of full utilization of the structure to include the existing first floor uses and three residential apartments on the second floor. As a condition for this approval, Mr. and Mrs. Lee will provide the City with irrevocable surety (bond, letter of credit, etc.) for the completion of the required off-street parking within two (2) years or earlier. Mr. Vath thought the Lees might be looking a longer period of time to complete and they may discuss that after the staff report is presented. Based upon the existing uses, the proposed upper floor residential and the administrative 30% reduction, permitted in the Legacy District, (when the parking lot is constructed) in the required spaces, the minimum spaces would be 22 spaces. The original plan called for 34 spaces.

Mr. Vath continued that in order to proceed with the above proposal, the Planning Board and staff needed to consider the following:

1. An acceptable off-street parking area, either the existing 34 space plan or another site plan with 22 spaces which would need an updated site plan and Planning Board approval.
2. An acceptable time frame for completion of the parking area and terms of the irrevocable surety be set.
3. The Lees would be required to submit a Certified Engineer's estimate for construction of the approved off-street parking area. This estimate would be subject to the approval of the City Engineer.
4. There needs to be a clear expectation that if the parking area is not completed at the end of the time frame, that the City would complete the parking area by using the surety.
5. If the construction of the parking area via the utilization of the surety, the City will require legal access to the property for the purposes of completing the parking lot. Hopefully it would never come to that situation.
6. Once the Certified Engineer's estimate was approved by the City, the irrevocable surety was in place with the City and the

contractual agreement allowing access to the property for construction purposes, in the event of non-compliance with the agreement, the residential habitation could be approved administratively as a principal permitted use in the LD-Legacy Overlay District as noted in Code §154.069(F)(1)(i).

Mr. McFarland asked if the surety is posted and the parking lot is completed, then the surety is returned. Mr. Vath said it would be returned. Mr. Springer asked what would happen if the surety is posted, the property is sold within that two year period, what happens then. Mr. Vath said it would have to be binding upon all future property owners and the surety would remain in place whether Mr. Lee owns it or someone else. Mr. Springer asked if this has ever been done before. Mr. Vath said never; normally the site plans are approved and the construction is done and that is it. This is an unusual situation. Mr. Blake asked what the cost to build this lot was. Mr. McFarland said for 34 spaces, \$65,000.

Mr. McFarland asked Mr. Lee for his comments. Paul Lee, 152 W. Franklin Street, came to the podium. He said as the building sets today it is not financially capable of putting in that type of parking lot. With the Overlay District, it will allow a reduction in the number of parking spaces required but just in a conversation with a contractor there is not a lot of difference in the cost of a 34 space lot compared to a 22 space lot. He said he would probably go ahead and do the 34 spaces. He spoke with Mr. Vath and needed to ask the Planning Board, was everything on the plan necessary, such as concrete curbing. He said the storm water is another issue. Mr. Vath said there appears to be a drainage tile that bi-sects what used to be the property to the south, owned by Nelson Borchers and partly Mr. Lee's property that is not functioning. Mr. Vagedes is looking for an alternate routing which may be south on Fifth Street down to German Street. Mr. Vath said Mr. Vagedes is looking at the different options and costing them out. Mr. Lee said he was hoping to have some answer on that situation. He said Mr. Steggemann was possibly going to use a water jet or a camera to look at this storm drain. When it rains there is water that retains on Mr. Lee's lot which takes a while to dry. Mr. Lee said part of the cost is getting the storm water off the lot. In the lot construction plan, the site plan takes that storm water line to Broadway. If this storm drain that was found could be opened up and used, then it would reduce the parking lots costs quite a bit. Mr. Lee said that Mr. Vagedes said that if we construct the line and run the water to Broadway, the City could tie into that until the line could be run down Fifth Street.

Mr. Lee said they want to continue to use the building and add the other uses that have become possible thru the Legacy Overlay District. With the residential use, the residents would more than likely be working during the day and only need parking in the evening. Mr. Lee said he really needed to generate finances to build the lot. The curbing and the storm water situation are two things that could reduce that cost. Mr. Vath said the approved site plan that shows curbing would require Planning Board review for a modification such as to create a "bowl" to retain the water in lieu of the curbs. Mr. Vath said the elimination of curbing was done at Kyle Park because the drainage is to the Great Miami River. Most parking lots do have the curbing to control the storm water. Mr. Lee said he understood that and was just checking to see if

he needed to check with his engineer to review that design and redo the site plan.

Mr. Blake asked if the burden to find out what was going on with the storm sewer was the City's or the property owner. Mr. Vath said he was not the City Engineer nor the Street Superintendent but there appears to be the potential of a city storm sewer or drainage tile that may run thru the property that is not functioning properly. He thought it would be ill-advised for Planning Board to allow a connection to a storm sewer line or drainage tile that is not functioning at the discharge point. Mr. Lee's approved 2004 plan shows a connection to Broadway which is a fully functioning storm water system. Mr. Vath said he did not know the solution from the City Engineer's standpoint on how this problem is going to be solved. He said it may be more cost effective to collect all the water on Fifth Street and run it to German Street and over to a storm sewer system down on German and abandon this line that runs thru these two properties, they may be clogged the whole way, they may be clogged at the railroad tracks. Mr. Lee said they are not clogged up to the point, where they dug a hole to locate it. They dug up a 4' hole and found the broken clay-type pipe. They did go from the street to this hole and found it was open. A camera or a water jet was used and they did find it was plugged at the tracks. Somewhere that water has been draining from Fifth Street and not going anywhere.

Mr. McFarland asked if it is a City owned line then wouldn't it be the City's responsibility to repair it. Mr. Vath said the solution might be to abandon it if it is broken down at the railroad track. It may be more cost effective to run the proper storm sewer line in the correct direction to fix some other problems, but that was the City Engineer's call. Mr. McFarland asked if Mr. Lee needs to provide for any new storm water drainage off his lot. Mr. Vath said that was what has been designed at this point, Mr. Lee's discharge dumps into a city system on Broadway, which is functioning and can handle the capacity that he would discharge out there. Mr. Springer asked if his property is harmed by water buildup and this issue was raised 8 months ago by Mr. Borchers. Mr. Vath said he was not fully aware of what has been discovered by Mr. Steggemann and Mr. Vagedes. Mr. Lee said they do know that the storm drains on Fifth Street go into this line and that they got to the railroad tracks, about 50' with a water jet and it stopped. Mr. Lee said regardless of what that is, we did not know that existed but somewhere those storm drains on Fifth Street will have to be addressed. Mr. Lee said he would like to move forward with the construction of the lot. He said he will work towards a resolution as he did not wish to build a lot that has storm drains going nowhere.

Mr. Berbach asked if Mr. Lee could live with the stipulations for the parking lot. Mr. Lee said he would have a hard time with the bond because they did not know yet if they will be able to rent out the units on the second floor. If they are unable to and find out in a couple of years that they are unable to raise enough money; they have to be able to pay for it. They would like to come up with a cost effective plan for the parking lot. Mr. Berbach clarified Mr. Lee's statements that he wanted to rent it, receive some income, and maybe fix it later. Mr. Lee said there was no "maybe" at all. He said he did want to put in the parking lot but he had to be able to pay for it also. Mr. Blake said he was not on the Board in 2004 but, it appears the Board thought the parking lot was

going to be put in. Mr. Vath said the lot was to have been constructed within a year, October 2005. Mr. Lee said when the agreement was made; we agreed to put in a parking lot. When he bought that section of lot with the parking lot, they thought they would be allowed to use it because it was an already existing (gravel) parking lot. He already had tenants there and the hair studio going in but because the uses were not permitted in that zoning, now the parking lot had to be brought up to standards for the businesses. Mr. Lee said he agreed to put in a parking lot but he didn't have the quotes for the cost. They got the quotes after that and that was his "bad" for not getting some idea of how much it was going to cost him.

Mr. Horrocks said Mr. Lee was talking 3 apartments, rented out for \$500 a month, over 3 years, that is \$54,000 in revenue, would that cover a lot? Mr. Lee said that is a possibility. Mr. Horrocks asked if there was going to be a conversation in three years that he hasn't raised enough. Mr. Lee said if he can get the apartments rented that will help him greatly. Mr. Springer asked if he did not have the curbing and did a "bowl" shaped design, how much would that reduce the cost. Mr. Vath said the curb cost \$8-10 per foot, roughly. Mr. McFarland said the Board would still have to require parking blocks.

Mr. Blake said from what he was hearing, two more years should be more than enough to resolve the storm water issues, the lot has to go in so if the bond is in place, Mr. Lee was not putting that money out unless the lot is not put in. Mr. Lee said there was an expense of the bond. Mr. Blake said with a line of credit, it would not be used until the lot is being constructed if Mr. Lee could not fulfill the contract. Mr. Blake said he had no problem with the apartments in the building prior to the lot being put in. He added that if the lot is go in then the City needs some bonding so that will happen. Mr. Lee said he sees the City's side that the lot needs to go in, he sees that he needs to be able to pay for the lot and he did wish to address the issue of the storm water. He did not wish to construct the lot and then have the storm water dead-heading off into the ground. Mr. McFarland asked if the Board could recommend that before anything else is done that Mr. Lee get a price without the curbing and bowl shaped design plus what he had before; then maybe within 30 days there could be an answer from the City Engineer. Mr. Vath said he will discuss the matter with Mr. Vagedes but the other issue is the availability of Capital Improvement dollars. In light of fiscal and budget constraints and in October the Board will hear from City Manager Collinsworth will be presenting the Capital Improvement Budget, this project has never been in the 5-year Plan. The parking lot plan was not designed with the storm water running into this broken line. It makes the cost higher (discharge to Broadway), but that was the plan presented and approved by the Planning Board in 2004. If the City can get the other line functioning then it may reduce the cost for Mr. Lee.

Mr. Lee said his plan was not to put it off but to install as soon as possible. If he can go to his financial institution and say he is ready to rent out the apartments and here is the proposed amount of income. Once he is able to do that then he might be able to obtain a loan to complete the lot. Mr. Lee said if he went ahead with the 34-space parking lot plan, take the storm to Broadway; the uncapped pipe has to be dealt with. Mr. Blake asked Mr. Vath if Mr. Lee completed his lot in the next two months, and three months later the City decided to work on

that line, would the City take care of any work done within the lot. Mr. Vath said it would be the City's responsibility to repair any damages that would occur on the property if it was a city line. Mr. Lee said the required detention area goes right over the top of that line. Mr. Vath asked Mr. Lee to show him on the site plan. Mr. Blake said if the line is damaged now then is it likely that the City would abandon it. Mr. Vath said that is a decision that has to be made by Mr. Vagedes. Mr. Vath said it appeared that the parking area is not over the storm line, it is north of this area. Mr. Lee said he needed assurance that the lot would not be dug up after he installs it.

Mr. Berbach said it sounds like there is a lot of work that needs to be done before the Planning Board can address the matter. Mr. Berbach said he was glad Mr. Lee was communicating with the Board. Mr. Lee said a lot has changed since the lot was approved and the problem was he was still waiting. Mr. Berbach said he had been on the Board for three years and we are still at the same place that we were before. The information found out about the storm sewer is beneficial and it needs to be resolved. Mr. Blake said he was concerned about the precedent being set for future similar issues. An agreement was made in 2004 and it is three years later. Mr. Springer said the I-1D/Legacy District changed the dimensions of the whole matter. Mr. Lee asked what direction the Board would like to send him in. Mr. Berbach said he would not give his approval for the apartment use until there is an agreement on what we are going to do, because he didn't feel comfortable saying rent it out betting on the outcome.

Mr. Lee said the thing that hurts him for example, there is no parking downtown required. He is required parking. Mr. Blake said there was no place for parking downtown. Mr. Lee said the City put in a parking lot and there is no retention area required for that. The City is getting rid of ground that absorbs the water. Mr. Blake said from what he was hearing, Mr. Lee was concerned that if he puts the parking lot, connects the storm to Broadway, then the City turns around and fixes the storm water line, then he was going to be out the additional funds. Mr. Lee said it was about \$15,000 to dig up that lot and take the line to Broadway. Mr. Lee said Mr. Vagedes has known about the problem since last fall but with other projects there was not a resolution yet.

Mr. Springer asked why the two-year window for completion. Mr. Vath said if in a perfect world, the lot would have been completed and we would not be having this discussion. As a compromise, which will give Mr. Lee 5 years to get the parking lot constructed with the additional two-year surety, we often get surety letters of credit and/or bonds. So that was the concept that it provided a 5-year total window to get it constructed which is way beyond anything we considered when the plan was first brought forth. It gives him two years to build up the revenue that is important to do that or up to two years and provides a guarantee for the City and the Planning Board that the lot is going in one way or another. Staff will not go before the Board asking for another extension. With the surety in place it gives Mr. Lee the additional use of the upstairs and gives the taxpayers and the City the surety that the parking lot gets installed within that two year timeframe.

Mr. McFarland asked if he provides surety with the two-year window, would the City be comfortable in allowing him to use the

upstairs for residential use. Mr. Vath said once the surety is posted and there is a legally binding mechanism to enter Mr. Lee's property and install the parking lot, if necessary, hopefully never necessary, then yes, the City would be comfortable allowing or recommending that we allow the residential use in the upstairs of those properties; knowing that an end is there within two years it is going to be installed either by Mr. Lee or by the City as approved in that scenario five years ago. Mr. McFarland said that is basically where we are at except for some sort of answer from Mr. Vagedes. Mr. Vath said he would speak to Mr. Vagedes the next day and suggested to Mr. Lee that he look at a redesign of the parking lot; if there is additional savings by not putting in curb. The concern Mr. Vath had if he was a property owner and I start "bowling" the lot too much and retaining it, depending on how deep that is, if you can get vehicles in and out depending on how much water is stored there. With the curb you have a maximum of 6". One doesn't need to create a pond. Mr. Lee said he wasn't saying he wanted to do that but the possible issue of another line being available; he may be able to leave the curbing in. Mr. Lee asked if he had a 5 year window from the date that you say yes, but in the last two years if it is not in, after the third year..... Mr. Vath said no he had 5 years from when the Planning Board approved it, which was October 14, 2004. He said Mr. Lee had two more years left to build up the revenue and build the lot.

Mr. Springer asked what was the lead time to getting the upstairs in shape for renting. Mr. Lee said one had been used for that. The other one is close; the third could take a couple of months. Mr. Blake said if he could go to his financier and show that he can use it as income producing property, and then he should be able to get a letter of credit.

Mrs. Kathy Lee came forward and said one of the things to take into consideration is that when they originally did the building, we got a small fortune invested in the improvements as it sets today. When they went to the bank they took into consideration that the apartments would be rentable. It has been how many years now and they have not been permitted to use it in that manner and generate that income. The banker is talking to her and saying that they need a history of renting the upstairs. Right now as it sets, for the last year, that building has lost money. With the last property tax increase, they have lost even more money so is not like the building is generating income. That is what the bank is looking at. To guarantee that the parking lot will be put in, the bank wants to see two years income on those apartments. The bank took that into consideration when they originally did the building based on that income being there. Mr. Blake said he understood that but going into this undertaking knowing that the parking lot would have to go in. Mrs. Lee said when it originally was done, it sold as commercial property and then they found out it was I-1D. We have been going through this battle since they bought it just to get businesses in there. The businesses in there are doing well and she would like to see the parking lot go in. They bought the property behind them and then sectioned off the already graveled parking lot to use and then found out that they couldn't use it. The rental of the upstairs brought up the issue of the Legacy Overlay District and now they are able to but now the parking lot has to go in. The bank is not going to loan the money to do the parking lot without the revenue from upstairs.

Mr. Vath said when the original application came in for the change of uses for the commercial structures on the first floor and the parking lot plan, it was known and approved that there were no uses upstairs when the Planning Board voted on it and when the applicant brought forth the application as part of the structure. He understood from what Mrs. Lee is saying that the bank was under a false assumption about the apartments being viable at that point in time when the lending went on but from the Planning Board's perspective it was quite clear that until the parking lot was installed they could not use the upstairs. There were many charts and tables breaking down those uses. From the City's and the Planning Board's perspective it was quite clear on what could be used and what could not be used and the requirement that the parking area needed to go in as part of that site plan approval.

Mr. McFarland verified that this was just a discussion item. Mr. Vath said that was correct and said he would follow up with Mr. Vagedes. Hopefully there will be some answers at the next Planning Board meeting. Mr. Berbach said he felt good that there has been some movement to get things moving. Mr. Springer asked for the total number of spots that they have that are in compliance. Mr. Vath thought it might be nine. He looked at the site plan. Striped spaces on the currently paved area, there were 3 along the western property line and 2 along the southern property line, theoretically 5. Dick's Automotive parks on the CSX railroad right-of-way but we cannot consider that because that is not on his property and legal parking. Mr. Blake asked if this would come before the Board as an item. Mr. Vath said it would come from the applicant's reaction to the City Engineer's finding on the storm sewer. They would stress to all parties that we need to get the issue resolved and the parking lot constructed or a mechanism be in place to make sure the lot is constructed within the 24-month window that we have spoken of.

Mr. McFarland asked if the matter needed to be on the next meeting as a discussion item. Mr. Vath said he was sure the Lees would need to check with their bank and design firm. He said he had an appointment with his finance person but he didn't have an answer regarding the pipe. He said he will get with Mr. Vath and Mr. Vagedes and a discussion item would be alright for next month. He thanked the Board for their time. Mr. McFarland thanked him for his information.

City Council Reports:
July 16, 2007- Mr.
Blake

Mr. Blake was unable to attend the July 16th meeting but in looking at the agenda results, the Final Ordinance was passed for the Menards Commercial Park subdivision. He asked if that meant they could begin building. Mr. Vath said Menards has bids out and he would be recording the Final Plat on August 16. He assumed they would be breaking ground within 30 days. Mr. Blake continued that the Eidemiller rezoning hearing was set for August 20th. The City replat for the fire department will also be August 20th.

August 6, 2007- Mr.
McFarland

Mr. McFarland reported that 6 members were present. Ordinance 23-07 approving the replat of Inlot 2629 & 2631 and accepting the right of way, the Sylvester/Blair subdivision, was passed 6-0. There were first readings for the rezoning of the Eidemiller property, the 23.203 acres donated to the City from Meijer, and to add the Legacy Overlay District to 321 N. Fourth St. There was a first reading to approve the replat and accept right-of-way for 530-536 W. Main St. for the Fire/EMS parking lot.

Board member
comments

There was also a motion to set Wednesday, October 31, 2007, 6-8pm for Tipp City's Beggars Night.

Mr. Springer asked the scheduled completion date for Main Street Streetscape. Mr. Vath said a final course of asphalt should be on before the snow flies. He thought the contract was in October or November.

Mr. Berbach asked about the Veteran's Memorial Park. Mr. Vath said some of the brick pavers were being installed today. The City is still looking for funding the gap because the project was not laid out in the 5-Year Capital Improvement Program.

Mr. Horrocks thanked MVRPC for the presentation. He said he did wish to work with them to find ways that accepts the demographic trends that are going on and to adopt the best practices. He hoped we don't try to swim upstream and try to plan something that is a little bit different from what people want. When regional plans and policies are discussed, those plans become obsolete when they try to plan what people don't want. Mr. Kim said people were trending towards lighter densities and some of the planning people try to stay with tighter densities and stay away from urban sprawl. Clearly, the market wants to go with sprawl and a balance needs to be found.

Mr. Horrocks asked about the sanitary sewer treatment line on the monthly utility bills. Mr. Vath said that pays the charge to the Tri-Cities Regional Authority. There are two different components on the sanitary bill, one for the collection system which is owned and operated by the City of Tipp City, the second is the treatment component, which is the conveyance of that water to the Needmore Road facility, treat the water, and discharge the effluent back to the Great Miami River.

Mr. Horrocks asked how it might be possible to get wireless internet service for the City. Mr. Vath said it is getting close. Clearwire has signed a contract with the City to use the Bowman Avenue water tower as a site to install wireless internet service. There are other sites up and down I-75 as part of the saturation plan. They have taken measurements and are making templates of the tower and fairly soon the construction will occur. They are already paying rent on the tower.

Mr. Blake said there were a lot of issues with Mr. Lee's property and it appears that the property owner and others, when they get involved in business ventures that there is a lack of due diligence with what they can do and cannot do with a property. Mr. Berbach said he agreed with that. Mr. Blake said it should not be the Planning Board's responsibility. We can be flexible, we want to work with property owners but at some point, some accountability has to come into play. Every case is looked at individually, some areas have parking waived. Those issues should have been resolved in 2004 and not 2007.

Mr. McFarland thanked City staff for the well informed packets. Mr. McFarland said he thought the Board looked at situations on both sides-of-the-coin. For some reason, the Board got caught on the edge of this matter, the parking lot deal for Mr. Lee. He said Mr. Lee was instrumental in getting the Legacy District study done and it showed that there were some problems with that. Mr. McFarland said a precedent could be set in the Legacy District but there could be underlying

circumstances such as the storm sewer line problem. There needs to be another discussion on the matter after we have more information. Mr. Blake agreed that more information was needed. Mr. Horrocks said there is relative consensus that two years with surety is okay with the Board but the Board does need more information on the broken tile. Mr. McFarland said maybe Mr. Vagedes does need to attend the next meeting. Mr. Springer asked if the Lees have a plan that they are to follow for the parking lot and they are financially unable to build to that plan, what recourse does the City have? Mr. Vath said we would probably be heading towards a legal action because Mr. Lee is violating the approved site plan, the conditions of the use of the property that was approved by the Planning Board. Mr. Springer said we need to work towards a positive resolution and if not we need to "draw a line". Mr. Blake said that is part of his concern, he was not on the Board in 2004, but if a variance was needed then to make it more affordable for Mr. Lee. Mr. McFarland said the Legacy District was not in place to reduce the number of spaces needed. Mr. Vath said Mr. Lee does wish to build the 34 space lot.

Adjournment

There being no further business for discussion, Mr. Blake **moved that the meeting be adjourned**. Mr. McFarland seconded the motion. The motion unanimously carried. Chairman McFarland declared the meeting adjourned at 10:08 pm.

Michael McFarland, Planning Board Chairman

Attest: _____
Marilyn Fennell, Board Secretary